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CANADA

EXAMINER	
FONSECA, JESSIE T	
ART UNIT	**PAPER NUMBER**
3633	

MAIL DATE	DELIVERY MODE
01/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/829,356	TARR, NEIL AUBREY	
	Examiner	Art Unit	
	JESSIE FONSECA	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *10-17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 18-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 5, 6, 18 are objected to because of the following informalities:

With regards to claim 5: The limitations "the anchor" and "the form tie receptacle" lacks proper antecedent basis. Examiner suggests replacing "the anchor" with -- each anchor --. In addition, Examiner suggests replacing "the form tie receptacle." with -- each corresponding form tie receptacle. –

With regards to claim 6: The limitation "the form tie receptacle" in lines 1-2 of the claim lacks proper antecedent basis. Examiner suggests replacing "the form tie" with – each form tie --.

The limitation "the anchor" in line 2 of the claim lacks proper antecedent basis. Examiner suggest replacing "the anchor" with -- each corresponding anchor --

Appropriate correction is required.

With regards to claim 18: The limitation "plurality of longitudinal studs as in claim 1" in line 2 of the claim is improper, as claim 1 recites a single longitudinal stud.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Albers (US 3,457,698).

With regards to claim 1: Albers discloses a longitudinal stud (22a) capable of use with a concrete wall for supporting retaining curable foam insulation adjacent the concrete wall. The stud (22a) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 22), the longitudinal member (22a) including:

- a longitudinal first surface (55) (fig. 22) capable of abutting against a concrete wall;
- an anchoring system (60) (fig. 22) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (A) extending from the first surface (55) (figs. 22 and 24) capable of receiving and retaining curable insulation adjacent to the concrete wall wherein the lateral web allows for fluid communication of the communication of the curable foam insulation between opposite sides of the lateral web to create a substantially continuous layer of insulation through the lateral web.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

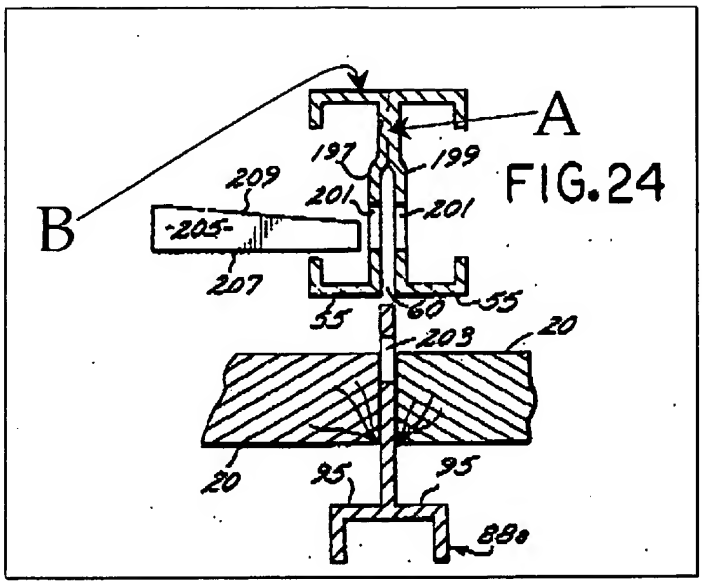

Fig. 24: Albers (US 3,744,826)

With regards to claim 2: Albers further discloses a second surface (B) disposed on the lateral web (A) opposite to the first surface (55) capable of supporting finishing treatment.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 3: Albers further discloses the lateral web (A) extends between the first and second surface (55, A) at right angles thereto (figs. 22 and 24)

With regards to claim 4: Albers further discloses the anchoring system (60) includes at least two corresponding form tie receptacles (60, 201) and corresponding anchors (205) capable of engaging a hole in the form tie. It is noted that anchoring points (201) of Albers are considered separate receptacles, as shown in fig. 22.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 5: Albers further discloses the anchor is a tab (205) located within the form receptacle (figs. 22, 24, and 25)

With regards to claim 6: Albers further discloses a form tie receptacle (60) includes an opening (201) (fig. 22), which is capable of alignment with the hole in the form tie. Hawes further discloses an anchor (205) capable of being placed through the opening (202) and through the hole when aligned to anchor the stud to the form tie.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 7: Albers further discloses the first surface (55) comprises first and second flanges extending outwardly from the web (A) (fig. 24).

With regards to claim 18: Albers discloses kit capable finishing a surface of a concrete wall, the kit comprising a plurality of longitudinal studs (22a) (figs. 1 and 22; col. 4, lines 70-75) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 22), the longitudinal member (22a) including:

- a longitudinal first surface (55) (fig. 22) capable of abutting against a concrete wall;

- an anchoring system (60) (fig. 22) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (A) extending from the first surface (55) (figs. 22 and 24) capable of receiving and retaining curable insulation adjacent to the concrete wall wherein the later web allows for fluid communication of the communication of the curable foam insulation between opposite sides of the lateral web to create a substantially continuous layer of insulation through the lateral web.

Albers further discloses a plurality of anchors (205) capable of anchoring the longitudinal studs to the form ties.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 1-4. 6-7, 9 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawes (US 3,744,826).

With regards to claim 1: Hawes discloses a longitudinal stud (30) capable of use with a concrete wall for supporting retaining curable foam insulation adjacent the concrete wall. The stud (30) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 3), the longitudinal member (30) including:

- a longitudinal first surface (34, 36) (fig. 3) capable of abutting against a concrete wall;
- an anchoring system (M) (fig. 3) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (N) extending from the first surface (34, 36) (fig. 1) capable of receiving and retaining curable insulation adjacent to the concrete wall wherein the lateral web allows for fluid communication of the curable foam insulation between opposite sides of the lateral web to create a substantially continuous layer of insulation through the lateral web.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

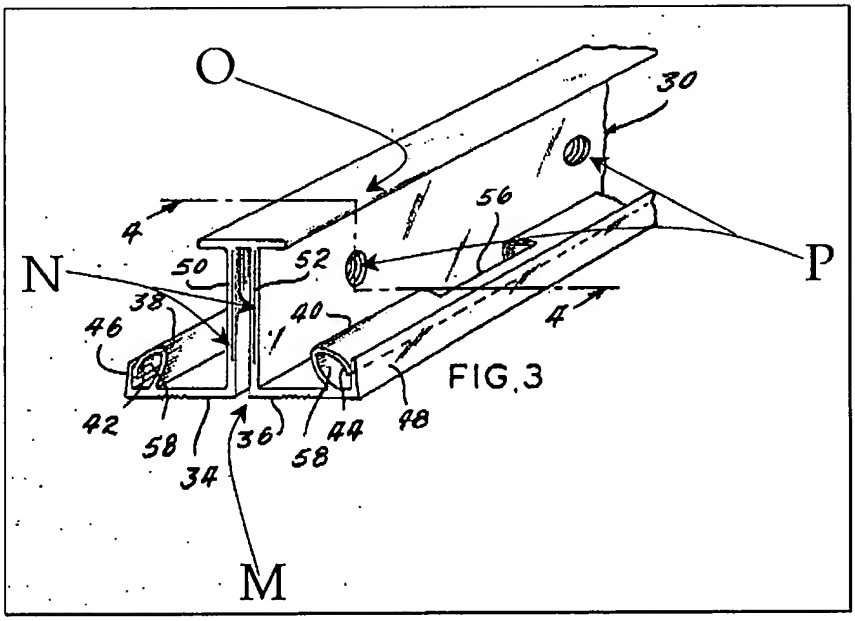

FIG. 3

Fig. 3: Hawes (US 3,744,826)

With regards to claim 2: Hawes further discloses a second surface (O) disposed on the lateral web (N) opposite to the first surface (34, 36), which is capable of supporting a finishing treatment.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 3: Hawes further discloses the lateral web (N) extends between the first and second surfaces (34, 36 and O) at right angles thereto (fig. 3).

With regards to claim 4: Hawes further discloses the anchoring system (M) includes at least two corresponding form tie receptacles (at anchoring points denoted by P) and corresponding anchors (205) (fig. 2), which is capable of engaging a hole in the form tie. It is noted that anchoring points (P) of Hawes are considered separate receptacles, as shown in fig. 3.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 6: Hawes further discloses a form tie receptacle (M) includes an opening (P), which is capable of alignment with the hole in the form tie.

Hawes further discloses an anchor (54) capable of being placed through the opening (P) and through the hole when aligned to anchor the stud to the form tie.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 7: Hawes further discloses the first surface (34, 36) comprises first and second flanges extending outwardly from the web (N) (fig. 3).

With regards to claim 9: Hawes further discloses the stud (30) is a moulded plastic stud (col. 5, lines 10-20).

With regards to claim 18: Hawes discloses kit capable finishing a surface of a concrete wall, the kit comprising a plurality of longitudinal studs (30) (figs. 2 and 3) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 3), the longitudinal member (30) including:

- a longitudinal first surface (34, 36) (fig. 3) capable of abutting against a concrete wall;
- an anchoring system (M) (fig. 3) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (N) extending from the first surface (34, 36) (fig. 1) capable of receiving and retaining curable insulation adjacent to the concrete wall wherein the lateral web allows for fluid communication of the curable foam

insulation between opposite sides of the lateral web to create a substantially continuous layer of insulation through the lateral web.

Hawes further discloses a plurality of anchors (54) capable of anchoring the longitudinal studs to the form ties.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 1-4, 6-8, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsueh (US 5,664,380).

With regards to claim 1: Hsueh discloses a longitudinal stud (1) capable of use with a concrete wall for supporting retaining curable foam insulation adjacent the concrete wall. The stud (1) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 2), the longitudinal member (2) including:

- a longitudinal first surface (S) (fig. 2) capable of abutting against a concrete wall;
- an anchoring system (R) (fig. 2) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (T) extending from the first surface (S) (fig 2) capable of receiving and retaining curable insulation adjacent to the concrete wall

wherein the lateral web allows for fluid communication of the communication of the curable foam insulation between opposite sides of the lateral web to create a substantially continuous layer of insulation through the lateral web.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

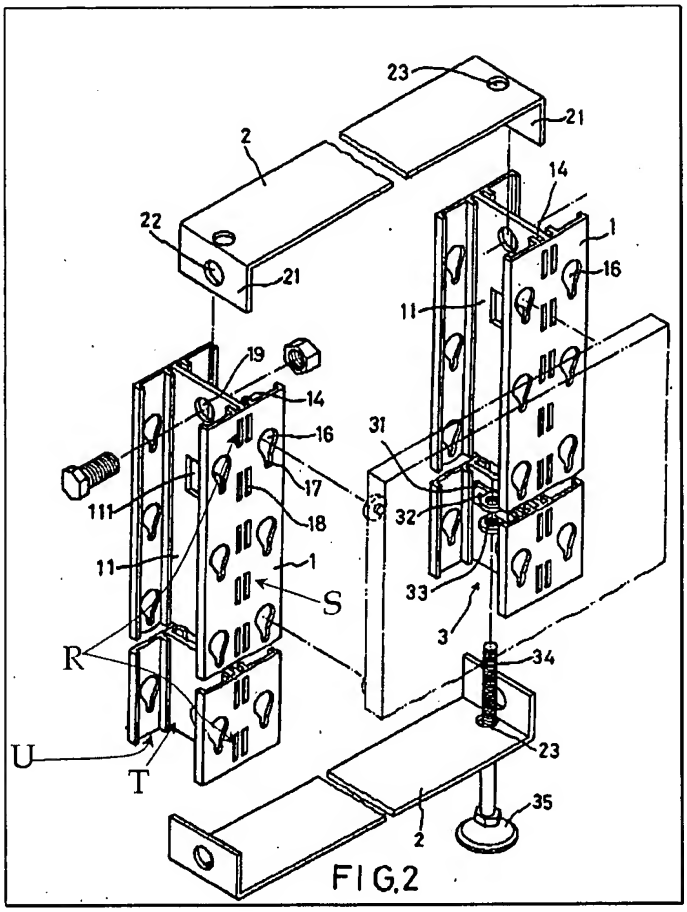

Fig. 2: Hsueh (US 5,664,380)

With regards to claim 2: Hsueh further discloses a second surface (U) disposed on the lateral web (T) opposite to the first surface (S) (fig. 2), which is capable of supporting a finishing treatment.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 3: Hsueh further discloses the lateral web (T) extends between the first and second surfaces (S, U) at right angles thereto (fig. 2).

With regards to claim 4: Hsueh further discloses the anchoring system (R) includes at least two corresponding form tie receptacles and corresponding anchors (bolts as shown in figs. 2 and 3) (fig. 2), which is capable of engaging a hole in the form tie.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 6: Hsueh further discloses a form tie receptacle (R) includes an opening (19), which is capable of alignment with the hole in the form tie. Hawes further discloses an anchor (bolts as shown in figs. 2 and 3) capable of being placed through the opening (19) and through the hole when aligned to anchor the stud to the form tie.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 7: Hsueh further discloses the first surface (S) comprises first and second flanges extending outwardly from the web (R) (fig. 2).

With regards to claim 8: Hsueh further discloses the first and second flanges of the first surface (S) include an aperture (fig. 2) capable of having a nail driven through to secure the flange against the concrete wall.

With regards to claim 18: Hseuh discloses kit capable finishing a surface of a concrete wall, the kit comprising a plurality of longitudinal studs (1) (figs. 2 and 3) comprising a longitudinal member having a length dimension greater than a width and depth dimension (fig. 2), the longitudinal member (30) including:

- a longitudinal first surface (S) (fig. 2) capable of abutting against a concrete wall;
- an anchoring system (R) (fig. 2) capable of anchoring the first surface to at least two form ties protruding from the concrete wall; and
- a lateral web (T) extending from the first surface (S) (figs. 22 and 24) capable of receiving and retaining curable insulation adjacent to the concrete wall wherein the lateral web allows for fluid communication of the communication of the curable foam insulation between opposite sides of

the lateral web to create a substantially continuous layer of insulation through the lateral web.

Hsueh further discloses a plurality of anchors (bolts as shown in figs. 2 and 3) capable of anchoring the longitudinal to the form ties.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albers (US 3,457,698) in view of Silverman (US 6,243,999).

With regards to claim 19: Albers discloses everything previously mentioned, but fails to disclose an opening trim member capable of operative engagement with a concrete wall adjacent an opening, the trim member including an abutting surface for abutting an opening in a concrete wall, an extension member extending angularly form the abutting surface a second extension member for supporting attachment of a finishing surface. However, Silverman discloses an opening trim member (20) capable

operative engagement with a wall adjacent an opening, the trim member (20) including an abutting surface for abutting an opening in a wall, an extension member extending angularly from the abutting surface a second extension member (24) (figures 2-4). It would have been obvious to one of ordinary skill in the art at the time of the invention was to made to modify the kit of Albers to employ a portal and portal trim within the building structure as taught by Silverman so as to provide a support for a finishing surface.

The trim member of Silverman is capable of supporting attachment of finishing surface and supporting curable foam insulation adjacent the opening.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes (US 3,744,826) in view of Silverman (US 6,243,999).

With regards to claim 19: Hawes discloses everything previously mentioned, but fails to disclose an opening trim member capable of operative engagement with a concrete wall adjacent an opening, the trim member including an abutting surface for abutting an opening in a concrete wall, an extension member extending angularly form the abutting surface a second extension member for supporting attachment of a finishing surface. However, Silverman discloses an opening trim member (20) capable

operative engagement with a wall adjacent an opening, the trim member (20) including an abutting surface for abutting an opening in a wall, an extension member extending angularly from the abutting surface a second extension member (24) (figures 2-4). It would have been obvious to one of ordinary skill in the art at the time of the invention was to made to modify the kit of Hawes to employ a portal and portal trim within the building structure as taught by Silverman so as to provide a support for a finishing surface.

The trim member of Silverman is capable of supporting attachment of finishing surface and supporting curable foam insulation adjacent the opening.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh (US 5,664,380) in view of Silverman (US 6,243,999).

With regards to claim 19: Hsueh discloses everything previously mentioned, but fails to disclose an opening trim member capable of operative engagement with a concrete wall adjacent an opening, the trim member including an abutting surface for abutting an opening in a concrete wall, an extension member extending angularly form the abutting surface a second extension member for supporting attachment of a finishing surface. However, Silverman discloses an opening trim member (20) capable

operative engagement with a wall adjacent an opening, the trim member (20) including an abutting surface for abutting an opening in a wall, an extension member extending angularly from the abutting surface a second extension member (24) (figures 2-4). It would have been obvious to one of ordinary skill in the art at the time of the invention was to made to modify the kit of Hseuh to employ a portal and portal trim within the building structure as taught by Silverman so as to provide a support for a finishing surface.

The trim member of Silverman is capable of supporting attachment of finishing surface and supporting curable foam insulation adjacent the opening.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albers (US 3,457,698) in view of Koenig, Jr. (US 5,477,643).

With regards to claim 20: Albers discloses everything previously mentioned, but fails to disclose a corner stud capable of attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge. However, Koenig, Jr. discloses a corner stud (10) for attachment to a wall corner (fig.4), the stud (10) including a first and second wall

contacting surface (12) and first and second web surfaces (60) extending outwardly form the first and second wall contacting surfaces (12), the first and second web surface (60) interconnected by a flexible hinge (14) (col. 2, lines 57-60 and fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the kit of Albers to include corner stud for attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge as taught by Koenig, Jr. in order to a provide support for a finishing surface along a corner that has an angle less than or greater than 90 degrees.

Claims 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawes (US 3,744,826) in view of Koenig, Jr. (US 5,477,643).

With regards to claim 20: Hawes discloses everything previously mentioned, but fails to disclose a corner stud capable of attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge. However, Koenig, Jr. discloses a corner stud (10) for attachment to a wall corner (fig.4), the stud (10) including a first and second wall contacting surface (12) and first and second web surfaces (60) extending outwardly form the first and second wall contacting surfaces (12), the first and second web surface (60) interconnected by a flexible hinge (14) (col. 2, lines 57-60 and fig. 4). Therefore, it

would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the kit of Albers to include corner stud for attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge as taught by Koenig, Jr. in order to a provide support for a finishing surface along a corner that has an angle less than or greater than 90 degrees.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh (US 5,664,380) in view of Koenig, Jr. (US 5,477,643).

With regards to claim 20: Hseuh discloses everything previously mentioned, but fails to disclose a corner stud capable of attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge. However, Koenig, Jr. discloses a corner stud (10) for attachment to a wall corner (fig.4), the stud (10) including a first and second wall contacting surface (12) and first and second web surfaces (60) extending outwardly form the first and second wall contacting surfaces (12), the first and second web surface

(60) interconnected by a flexible hinge (14) (col. 2, lines 57-60 and fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the kit of Hseuh to include corner stud for attachment to a wall corner, the stud include a first and second wall contacting surface and first and second web surfaces extending outwardly form the first and second wall contacting surfaces, the first and second web surface interconnected by a hinge as taught by Koenig, Jr. in order to a provide support for a finishing surface along a corner that has an angle less than or greater than 90 degrees.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

The rejection of claim 5, 8, and 20 under 35 USC 112 second paragraph has been withdrawn in view of the amendment filed 11/06/07.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art is directed to structural members having an I or T configuration:

Pleming (US 3,509,669) and Ramsey (US 3,556,462)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSIE FONSECA whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/J. F./

Examiner, Art Unit 3633

Robert Canfield
Primary Examiner